

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27/04/2004

CORAM

THE HONOURABLE MR.JUSTICE P.D. DINAKARAN
AND
THE HONOURABLE MR.JUSTICE T.V. MASILAMANI

A.S. No.684 of 1996

The Special Tahsildar
Adi Dravidar Welfare
Sivagangai .. Appellant

-Vs-

Muthu Konar .. Respondent

Prayer: Appeal against the judgment and decree dated 30.4.1992 made in
L.A.O.P.No.11 of 1988 by the learned Subordinate Judge, Sivagangai.

!For Appellant : Mr.E.Sampath Kumar
Government Advocate

^For Respondent : Mr.A.S.Vijayaraghavan

:J U D G M E N T

(The judgment of this Court was delivered by P.D.DINAKARAN,J.)

The appeal is directed against the judgment and decree dated 30.4.1992 of the learned Subordinate Judge, Sivagangai made in L.A.O.P.No.11 of 1988, increasing the compensation awarded by the Land Acquisition Officer from Rs.23.40 per cent to Rs.650/- per cent, for the land of an extent of 1.20 acres located in Survey No.255/4 in Rahinipattai Village, Sivagangai District, acquired pursuant to the notification dated 27.8.1986 issued under Section 4(1) of the Land Acquisition Act, for the purpose of providing housing sites to Adi Dravidars.

2.1. Mr.E.Sampath Kumar, learned Government Advocate challenges the enhancement of compensation made by learned Subordinate Judge, Sivagangai in the judgment and decree dated 30.4.1992 made in L.A.O.P.No.11 of 1988, preferred under Section 18 of the Land Acquisition Act by the respondent/claimant, on the ground that the enhancement was made without any basis and without taking into consideration any documentary evidence.

2.2. Mr.E.Sampath Kumar, learned Government Advocate also invited our attention to the documents relied upon by the Land Acquisition Officer in the

award proceedings dated 15.12.1987, whereunder land of an extent of 41 cents located in the very same village, in the same survey No.255/6 was sold under document No.1330, registered on 16.9.1984 at the rate of Rs.220/- per cent. Since the impugned lands are also in the very same survey number, viz., S.No.255/4 in the same village, there cannot be any objection for taking into consideration the document relating to sale of land pertaining to Survey No.255/6 of Rahinipattai Village, Sivagangai District, as referred to above, as a basis for arriving at the compensation.

3. Per contra, Mr.A.S.Vijayaraghavan, learned counsel for the respondent/claimant, reiterating the reasons that weighed the learned Subordinate Judge, Sivagangai in enhancing the compensation from Rs.23.40 per cent to Rs.650/- per cent in the order dated 30.4.1992 under appeal, contends that there is no necessity to interfere with the said compensation awarded by

the learned Subordinate Judge, Sivagangai taking the market value of one cent at Rs.300/- and awarding a compensation for the trees and better location and finally arriving at Rs.650/- per cent.

4. After careful consideration, we are unable to appreciate the reasons that weighed the learned Subordinate Judge, Sivagangai. It is true, in the fixation of rate of compensation under the Land Acquisition Act, there is always some element of guesswork. But that has to be based on some foundation. It must spring from the totality of evidence, the pattern of rate, the pattern of escalation and escalation of price in the years preceding and succeeding the notification issued under Section 4(1) of the Act. In other words, the guesswork could reasonably be inferable from it. In the instant case, the enhancement of the compensation under the judgment and decree under appeal from Rs.23.40 per cent to Rs.650/- per cent is without basis or reasons. When documentary evidence is available with respect to sale of land located in the very same survey number, viz., Survey No.255/6, registered as document No.1330 on 16.9.1984, there is no justification to ignore the same. The failure to consider the said document, in our considered opinion, vitiates the judgment and decree dated 30.4.1992 made in L.A.O.P.No.11 of 1988 by the learned Subordinate Judge, Sivagangai.

5. We are, therefore, inclined to take the document bearing No.1330, registered on 16.9.1984, with reference to the land located in Survey No.255/6 in Rahinipattai Village, Sivagangai District of an extent of 41 cents at the rate of Rs.220/- per cent, as a basic document for arriving at the compensation and propose to add 15% appreciation value per year on the same and thus, arrive at a rate of Rs.300/- per cent as a fair and reasonable compensation to the respondent/claimant.

6. In the result, we allow the appeal in part. The market value is fixed at Rs.300/- per cent along with statutory benefits, viz., 12% additional compensation under Section 23(1)(a) of the Land Acquisition Act from the date of the notification made under Section 4(1) of the Land Acquisition Act till the date of award or taking possession, whichever is earlier and 30% solatium on the same with additional interest at the rate of 9% per annum for a period of one year from the the date of taking possession and thereafter 15% per

annum till the date of payment. However, as there is no serious objection as to the award of compensation to the trees and buildings fixed by judgment and decree dated 30.4.1992 made in L.A.O.P.No.11 of 1988 by the learned Subordinate Judge, Sivagangai, we do not propose to interfere with the same. No costs.

Index :Yes

Internet: Yes

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To:

1. The subordinate Judge
Sivagangai.

2. The Record Keeper
VR Section
High Court, Madras.

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